

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Tarr, Bruce (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to municipal management

PETITION OF:

NAME:

Tarr, Bruce (SEN)

DISTRICT/ADDRESS:

First Essex and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO MUNICIPAL MANAGEMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 71 of the General Laws is hereby amended by striking Section 37M
2 and replacing it with the following:-

3 “Section 37M. (a) Notwithstanding the provisions of chapter forty-one or chapter seventy-one or
4 any other special or general law to the contrary, any city or town which accepts the provisions of
5 this section may consolidate administrative functions, including but not limited to financial,
6 personnel, and maintenance functions, of the school committee with those of the city or town;
7 provided, however, that such consolidation may occur only upon a majority vote of the local
8 appropriating authority.

9 (b) Notwithstanding any general or special law to the contrary, a decision to consolidate
10 functions pursuant to paragraph (a) of this section may be revoked by a majority vote of the local
11 appropriating authority”.

12 SECTION 2. There is hereby established a special commission for the purpose of investigating
13 potential options for the modification of the means by which municipal entities are permitted to
14 join the State Group Insurance Commission, the impacts of such options, the feasibility of such
15 options, and their relative advantages and disadvantages.

16

17 Such commission shall consist of the Secretary of Administration and Finance or a designee who
18 shall chair the commission, the executive director of the Group Insurance Commission, three
19 representatives of municipal governments currently serving in an elected or appointed capacity
20 and selected from a list provided by the Massachusetts Municipal Association by the governor,
21 three representatives of public employee unions appointed by the governor, one member
22 appointed by the governor, with actuarial experience in health insurance and three additional
23 members appointed by the governor, one of whom shall represent the Massachusetts Taxpayers
24 Foundation and two of whom shall represent the citizens of the Commonwealth.

25

26 Said Commission shall report its findings, together with legislative recommendations for changes
27 and/or modifications, to the clerks of the House and Senate not later than six months following
28 the passage of this act.

29

30 SECTION 3. (a) Methodology - Notwithstanding any general or special law to the contrary, the
31 Secretary of Health and Human Services is hereby authorized and directed to, in consultation
32 with the University of Massachusetts, change the methodology by which the Commonwealth

33 seeks reimbursement from the federal Medicaid program for students educated pursuant to
34 Chapter 71B of the General Laws from the current “per diem” format, so-called, to a “fee-for-
35 service” format, so-called.

36 (b) Certification of Increased Reimbursement – Not later than thirty days following the initial
37 receipt of funds pursuant to the “fee-for-service” methodology and in periods of not more than
38 ninety days thereafter, the Secretary shall certify the amount by which reimbursement received
39 using this methodology exceeds the amount which would have otherwise been received, taking
40 into account inflation and any other relevant factors. Such excess amount shall be deposited into
41 the Special Education Assistance Fund established herein.

42 (c) There shall be established and set up on the books of the Commonwealth the Special
43 Education Assistance Fund, into which shall be deposited sums resulting from federal Medicaid
44 reimbursement pursuant to subsection (b) of this section.

45 Not less than sixty percent of the total amount in said fund shall be appropriated annually
46 for the purposes of assisting municipalities and regional school districts with the cost of
47 transportation of students provided pursuant to Chapter 71B of the General Laws. Said
48 appropriation shall be made in a form designed to ensure equity among students and local
49 educational authorities by utilizing a methodology based on a uniform percentage of eligible
50 transportation costs to be compensated.

51 The remainder of said fund shall be available for appropriation in the form of grants of
52 assistance to private institutions providing educational services pursuant to Chapter 766 of the
53 Acts of 1972 and its implementing regulations.

54 (d) The Secretary of Health and Human Services, the Secretary of Administration and finance
55 and the Commissioner of the Department of Education, in consultation with the University of
56 Massachusetts, shall develop a system of acquiring from municipalities and regional school
57 districts the information necessary to utilize a fee-for-service method of reimbursement from the
58 federal Medicaid system following the passage of this act and prior to a request for a change in
59 reimbursement methodology to the federal government.

60 Said system shall be designed to maximize efficiency and minimize the cost and burden
61 of compliance for municipalities and regional school districts.

62

63 SECTION 4. Section 44A of Chapter 149 of the General Laws is hereby amended by striking
64 Section 2 and replacing it with the following:-

65 “(2)(A) Every contract for the construction, reconstruction, installation, demolition, maintenance
66 or repair of any building by a public agency estimated to cost less than \$5,000 shall conform to
67 sound business practices.

68 (B) Every contract for the construction, reconstruction, installation, demolition, maintenance or
69 repair of any building by a public agency estimated to cost not less than \$5,000 but not more
70 than \$10,000 shall be awarded to the responsible person offering to perform the contract at the
71 lowest price quotation; provided, however, that the public agency shall seek written price
72 quotations from no fewer than 3 persons customarily providing the work for which the contract
73 is being made available. When seeking written quotations the public agency shall make and keep
74 a record of the names and addresses of all persons from whom price quotations were sought, the

75 names of the persons submitting price quotations and the date and amount of each price
76 quotation.

77 (C) Every contract for the construction, reconstruction, installation, demolition, maintenance or
78 repair of any building estimated to cost more than \$10,000 but not more than \$25,000 shall be
79 awarded to the responsible person offering to perform the contract at the lowest price. The public
80 agency shall make public notification of the contract and shall seek written responses from
81 persons who customarily perform such work. The public notification shall include a scope of
82 work statement that defines the work to be performed and provides potential responders with
83 sufficient information regarding the objectives and requirements of the public agency and the
84 time period within which the work is to be completed. For purposes of this subsection “public
85 notification” shall include, but not necessarily be limited to, posting, no less than 2 weeks before
86 the time specified in the notification for the receipt of responses, the contract and scope of work
87 statement on the website of the public agency, on the COMPASS system, so-called, or in the
88 central register established under section 20A of chapter 9, and in a conspicuous place in or near
89 the primary office of the public agency.

90 (D) Every contract for the construction, reconstruction, installation, demolition, maintenance or
91 repair of any building by a public agency estimated to cost more than \$25,000 but not more than
92 \$100,000, except for a pumping station to be constructed as an integral part of a sewer
93 construction or water construction project bid under the provisions of section 39M of chapter 30,
94 shall be awarded to the lowest responsible and eligible bidder on the basis of competitive bids
95 publicly opened and read in accordance with the procedure set forth in said section 39M of said

96 chapter 30. The term “pumping station” as used in this section shall mean a building or other
97 structure which houses solely pumps and appurtenant electrical and plumbing fixtures.

98 (E) Every contract for the construction, reconstruction, installation, demolition, maintenance or
99 repair of any building by a public agency estimated to cost more than \$100,000, except for a
100 pumping station to be constructed as an integral part of a sewer construction or water
101 construction project bid under the provisions of section 39M of chapter 30, shall be awarded to
102 the lowest responsible and eligible general bidder on the basis of competitive bids in accordance
103 with the procedure set forth in section 44A to 44H, inclusive.

104 (F) When the general court has approved the use of an alternative mode of procurement of
105 construction for a project pursuant to section 7E of chapter 29, the awarding authority
106 responsible for procuring construction services for the project shall follow the policies and
107 procedures of this section and of section 44B to 44H, inclusive, to the extent compatible with the
108 mode of construction procurement selected.

109 (G) Notwithstanding paragraph (E), a public agency may undertake the procurement of modular
110 buildings, in accordance with section 44E. A public agency may procure site work for modular
111 buildings, including but not limited to, construction of foundations, installations, and attachment
112 to external utilities, or any portion of site work, either in combination with the procurement of
113 modular buildings pursuant to section 44E or on the basis of competitive bids pursuant to the
114 paragraph (E). Notwithstanding the paragraph (E), a public agency may procure energy
115 management services in accordance with section 11C of chapter 25A and regulations
116 promulgated thereunder.”

117

118 SECTION 7. (a) Section 2 of Chapter 30B of the General Laws, as so appearing, is hereby
119 amended, after line 36 by inserting the following:-

120 "Electric bidding", the electronic solicitation and receipt of offers to contract for supplies
121 and services. Offers may be accepted and contracts may be entered by use of electronic bidding.

122

123 (b) Section 2 of Chapter 30B of the General Laws, as 50 appearing, is hereby amended, after line
124 90 by inserting the following:-

125 "Reverse auction", a competitive online solicitation process for supplies and services in
126 which vendors compete against each other online in real time in an open and interactive
127 environment.

128

129 (c) Chapter 30B of the General Laws, as so appearing, is hereby amended by adding after
130 Section 6 the following new section:-

131 "6A. (a) A chief procurement officer may enter into procurement contracts in the amount
132 of \$25,000 or more utilizing reverse auctions for the acquisition of supplies and services. The
133 reverse auction process shall include a specification of an opening date and time when real-time
134 electronic bids may be accepted, and provide that the procedure shall remain open until the
135 designated closing date and time.

136 (b) All bids on reverse auctions shall be posted electronically on the Internet, updated on
137 a real-time basis, and shall allow registered bidders to lower the price of their bid below the
138 lowest bid on the Internet.

139 (c) The chief procurement officer shall require vendors to register before the reverse
140 auction opening date and time, and as part of the registration, agree to any terms and conditions
141 and other requirements of the solicitation. The chief procurement officer may require vendors to
142 be pre-qualified prior to placing bids in a reverse auction. The pre-qualification criteria shall
143 include, but not be limited to statements of vendors: financial stability, past performances and
144 professional references. The statement of qualifications shall be signed under pains and penalties
145 of perjury.”

146

147 (d) Any mechanism, including but not limited to software, developed by the Operational
148 Services Division for the purpose of conducting reverse auctions by the Commonwealth, shall
149 provide for the utilization of such mechanism by municipalities.

150

151 (e) The Operational Services Division may assess any municipality utilizing such reverse auction
152 mechanism a reasonable fee, calculated to compensate for any increased cost attributable to such
153 utilization, which shall be credited to the general fund.